FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No.693/2006
(V.I.D.C. Akola Vs. Khinganabai Kaloji Jadhav)
AND
First Appeal No. 694/2006
(V.I.D.C. Akola Vs. Laxmibai Dagadu Sarkate & another)
AND
First Appeal No. 695/2006
(V.I.D.C. Akola Vs. Mankarna Kashiram Dakhore & another)
AND
First Appeal No. 697/2006
(V.I.D.C., Akola Vs. Kasabai Tryambak Sakate & another)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. A.B. Patil, Adv. for the appellant.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 25th July, 2007.

Since the lands in all these four appeals were acquired by the Section 4 notification which was issued on 8/1/1996 and since the facts involved therein are similar, all the four first appeals are heard together and are being disposed of by this common order.

The 3rd Ad hoc District Judge, Akola, had allowed the reference applications filed by the respondents in these four first appeals by separate judgments which were delivered on 26/4/2006. The lands belonging to the respondents were acquired for the Vishwamitra Project. The lands were

situated in village Pangartali, Taluka Patur, District Akola. Section 4 notification was issued on 8/1/1996. Only the extent of the total area acquired in all these four cases, was somewhat different. The Special Land Acquisition Officer passed the Award and granted compensation to the respondents in all these four appeals, for the open plot and the construction standing thereon, as stipulated hereunder:

F.A. No.	Property acquired	Compensation awarded by S.L.A.O.
693/05	Total Area 560 sq.mts. Constt. 482.80 sq. mts. Open Plot – 77.47 sq.mt. -	Const. Rs.42,021/- Open Plot-5,051/-
694/05	Total Area 568 sq.mts. Constrt. 139 sq.mts. Open Plot-429 sq. mts.	Const. Rs.6,556/- Open Plot :5,120/-
697/05	Total Area- 782 sq.mts. Constrt. 323 sq.mtr. Open plot- 459 sq. mt.	Const. Rs.17,816/- Open plot :7,050/-
695/2005	Total Area 576.51 sq. mtrs. Const. 183.99 sq. mts. Open Plot – 503.56 sq. mtrs. House No. 28/1 Total Area 503.56 sq. mtrs. Const. 236.72 sq. mtrs. Open plot – 255.84 sq. mtrs.	Granted Rs.97/- per Sq. Mtr. for constructed area.

The respondents were aggrieved by the meager compensation and, therefore, they filed reference

application before the Collector, Akola. The matters were referred to the Civil Court and the reference Court enhanced the compensation payable to the respondents herein as stipulated in the data here under:

F.A. No.	Compensation Awarded by S.L.A.O.	Enhanced by reference Court
693/2005	Rs. 42,021/- Rs. 5,051/-	Rs. 68,000/- (2/3rd of Valuer's report)
694/2005	Rs. 6,556/- Rs. 5,120/-	Rs.14,000/- (2/3rd of Valuer's report)
697/2005	Rs.17,816/- Rs. 7,050/-	Rs. 30,000/- (2/3rd of Valuer's report.
695/2005	Rs. 97/- per sq. mtr.	Rs. 107/- per sq. mtrs.

The appellant has challenged the enhancement granted in the four reference cases, in these four first appeals.

Shri Patil, the learned counsel for the appellant, submitted that the reference Court was not justified in enhancing the compensation as the Special Land Acquisition Officer had granted just and fair compensation to the claimants. According to the learned counsel, the Valuer who had submitted the valuation report in all these four

cases, was not Government Approved Valuer and he had not filed the documents on the basis of which he had prepared the valuation report. He further submitted that the reference Court failed to consider that the structure was a temporary structure and not the RCC or Load Bearing Structure. It was also submitted that no sale instance was brought on record to prove the entitlement of the claimants to enhanced compensation.

I have perused the judgments passed by the reference Court in all the four cases. The respondents in these cases had entered the witness box and had also filed the valuation reports which were exhibited in all the four reference cases. The witnesses examined on behalf of the respondents were cross-examined at length by the appellant, but nothing was brought out during their cross-examination so as to shake their case or disbelieve their version . The reference Court held that it was aptly proved from the evidence tendered by the parties on record that the Valuers were experts in the field of valuation. The reference Court, therefore, gave weightage to the opinion of the Valuers. The reference Court, however, cautioned itself and granted only 2/3rd amount of what was determined by the Valuers to be the market value of the land and houses in question. Thus, 1/3rd amount

determined by the Valuers is deducted towards depreciation costs. The market value of the house was fixed by the reference Court by deducting 1/3rd of the amount of the market price which was determined by the Valuers. Though the houses were old enough, the Valuer had deposed that the construction would sustain for a period of more than 60 to 70 years thereafter. The reference Court, however, rightly disbelieved the Valuer in this regard and held that the life of the house had almost expired. However, since the respondents were required to compulsorily vacate the houses in which they were living, the reference Court enhanced the compensation by certain extent in all the four cases. The approach of the reference Court while considering the cases for enhancement was extremely just and fair. The reference Court had considered the evidence in the right perspective to grant the enhanced compensation to the respondents/claimants. I find no fault whatsoever in the judgments passed by the reference Court in these four cases. Though the Valuer was not a Government approved Valuer in these cases, the reference Court has rightly observed that the Valuer was an expert in his field. Even otherwise, the land acquisition cases cannot be equated to other similar cases which are conducted in the Civil Courts and a strict proof in respect of the claim would not be

required in such cases. It would be enough if the claimant produces necessary and relevant evidence on record which is sufficient to determine the market value of the land and the house standing thereon.

For the reasons aforesaid, the first appeals are dismissed with no order as to costs.

JUDGE

RMP